



February 18, 2003

SENATE BILL No. 556

DIGEST OF SB 556 (Updated February 13, 2003 2:26 PM - DI 44)

Citations Affected: IC 5-13; IC 6-1.1; IC 6-1.5; IC 36-2; noncode.

Synopsis: Property taxation. Permits a political subdivision to receive an advance distribution from the property tax replacement fund. Reinstates as rules personal property assessment rules incorporated by reference into statutes. Allows approval of a late filed or incomplete application for an economic revitalization deduction or an enterprise zone inventory credit. Adjusts qualifications for certain civil taxing unit excessive levy appeals. Allows a county assessor to appear as an additional party or represent the township assessor in review proceedings before the Indiana board of tax review. Permits the Indiana board to make a final determination based on a stipulation, and requires the Indiana board to consider a county assessor's comments or objections to a final determination based on a stipulation. If the time for the Indiana board to issue a final determination expires, allows the petitioner to wait for a determination or file for de novo review in the tax court. Expands the rulemaking authority of the Indiana board. Changes the annual deadline for county auditors to provide information to the state, and imposes a penalty for failure to provide the information by the deadline. Provides that the county assessor (instead of the county auditor) is responsible for publishing notice of the annual session of the county property tax assessment board. Directs county auditors to forward sales disclosure form data to the legislative services agency.

Effective: July 1, 2003.

Kenley

January 23, 2003, read first time and referred to Committee on Finance.
February 17, 2003, amended, reported favorably — Do Pass.

SB 556—LS 7777/DI 52+



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February 18, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 556

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-13-6-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) All taxes collected by the
3 county treasurer shall be deposited as one (1) fund in the several
4 depositories selected for the deposit of county funds and, except as
5 provided in subsection (b), remain in the depositories until distributed
6 at the following semiannual distribution made by the county auditor.
7 (b) Every county treasurer who, by virtue of the treasurer's office, is
8 the collector of any taxes for any political subdivision wholly or partly
9 within the county shall, ~~upon~~ **not later than thirty (30) days after**
10 **receipt of** a written request for funds filed with the treasurer by a
11 proper officer of any political subdivision within the county, advance
12 to that political subdivision a portion of the taxes collected before the
13 semiannual distribution. The amount advanced may not exceed the
14 lesser of:
15 (1) ninety-five percent (95%) of the total amount collected at the
16 time of the advance; or
17 (2) ninety-five percent (95%) of the amount to be distributed at

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the semiannual distribution.

(c) Every county treasurer shall, not later than thirty (30) days after receipt of a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a part of the distributions received under IC 6-1.1-21-10 from the property tax replacement fund for the political subdivision. The amount advanced may not exceed the lesser of:

(1) ninety-five percent (95%) of the amount distributed from the fund to the county treasurer for the political subdivision at the time of the advance; or

(2) ninety-five percent (95%) of the total amount to be distributed by the county treasurer to the political subdivision on the next scheduled distribution date.

The request for funds under subsection (b) must be filed at least thirty (30) days before the county treasurer is required to make the advance.

(d) Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision.

~~(d)~~ (e) At the semiannual distribution all the advances made to any political subdivision under subsection (b) or (c) shall be deducted from the total amount due any political subdivision as shown by the distribution.

SECTION 2. IC 6-1.1-3-22, AS ADDED BY P.L.192-2002(ss), SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) Except to the extent that it conflicts with a statute, 50 IAC 4.2 (as in effect January 1, 2001), **is which was formerly incorporated by reference into this section, is reinstated as a rule.**

(b) Tangible personal property within the scope of 50 IAC 4.2 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 4.2 (as in effect January 1, 2001).

(c) The publisher of the Indiana Administrative Code ~~may continue to shall~~ publish 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 4.3 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 4.2 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.



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SECTION 3. IC 6-1.1-5.5-3, AS AMENDED BY P.L.90-2002, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) Except as provided in subsection (c), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance **and the legislative services agency**, in electronic format if possible. The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, ~~and~~ the department of local government finance, **and the legislative services agency** for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, and any other authorized purpose.

(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance **and the legislative services agency**, in electronic format if possible. The township assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, ~~and~~ the department of local government finance, **and the legislative services agency** for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, and any other authorized purpose.

SECTION 4. IC 6-1.1-8-44, AS ADDED BY P.L.192-2002(ss), SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 44.(a) Except to the extent that it conflicts with a statute, 50 IAC 5.1 (as in effect January 1, 2001), **is which was formerly** incorporated by reference into this section, **is reinstated as a rule.**

(b) Tangible personal property within the scope of 50 IAC 5.1 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as in effect January 1, 2001).

(c) The publisher of the Indiana Administrative Code ~~may continue~~ **to shall** publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana

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Administrative Code.

(d) 50 IAC 5.2 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.1 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

SECTION 5. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.4-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.3. (a) This section applies only to the following requirements: ~~under section 3, of this chapter:~~

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment or new research and development equipment, or both; or

(C) rehabilitation;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment or new research and development equipment, or both, under section 2, 3, or 4.5 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5 or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.



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SECTION 6. IC 6-1.1-15-4, AS AMENDED BY P.L.198-2001, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. ~~In addition,~~ The Indiana board may:

(1) assign:

(A) limited; or

(B) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the **property** reassessment fund under ~~IC 6-1.1-4-27~~. ~~In addition,~~ **IC 6-1.1-4-27.5**. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(b) If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

(c) The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment



board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

- (1) indicated on the petition submitted under section 1(e) of this chapter;
- (2) included in the township assessor's response under section 1(g) of this chapter; and
- (3) included in the county property tax assessment board of appeals' findings, record, and determination under section 2.1(d) of this chapter.

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

(d) After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, and the county auditor:

- (1) notice, by mail, of its final determination;
- (2) a copy of the form completed under subsection (c); and
- (3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

(e) Except as provided in subsection (f), the Indiana board shall conduct a hearing **within not later than** nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(f) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing **within not later than** one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(g) Except as provided in subsection (h), the Indiana board shall make a determination **within not later than** the later of ninety (90) days after the hearing or the date set in an extension order issued by the Indiana board.

(h) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make a determination **within not later than** the later of one hundred eighty (180) days after the hearing or the date set in an extension order issued by the Indiana board.

(i) **Except as provided in subsection (n)**, the Indiana board may not extend the final determination date under subsection (g) or (h) by more than one hundred eighty (180) days. ~~The failure of~~ **If** the Indiana board **fails** to make a final determination within the time allowed by

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1 this subsection, ~~shall be treated as a final determination of the Indiana~~
 2 ~~board to deny the petition. the entity that initiated the petition may:~~

3 **(1) take no action and wait for the Indiana board to make a**
 4 **final determination; or**

5 **(2) petition for judicial review under section 5(g) of this**
 6 **chapter.**

7 (j) A final determination must include separately stated findings of
 8 fact for all aspects of the determination. Findings of ultimate fact must
 9 be accompanied by a concise statement of the underlying basic facts of
 10 record to support the findings. Findings must be based exclusively
 11 upon the evidence on the record in the proceeding and on matters
 12 officially noticed in the proceeding. Findings must be based upon a
 13 preponderance of the evidence.

14 (k) The Indiana board may limit the scope of the appeal to the issues
 15 raised in the petition and the evaluation of the evidence presented to
 16 the county property tax assessment board of appeals in support of those
 17 issues only if all persons participating in the hearing required under
 18 subsection (a) agree to the limitation. A person participating in the
 19 hearing required under subsection (a) is entitled to introduce evidence
 20 that is otherwise proper and admissible without regard to whether that
 21 evidence has previously been introduced at a hearing before the county
 22 property tax assessment board of appeals.

23 (l) The Indiana board:

24 (1) may require the parties to the appeal to file not more than five
 25 (5) business days before the date of the hearing required under
 26 subsection (a) documentary evidence or summaries of statements
 27 of testimonial evidence; and

28 (2) may require the parties to the appeal to file not more than
 29 fifteen (15) business days before the date of the hearing required
 30 under subsection (a) lists of witnesses and exhibits to be
 31 introduced at the hearing.

32 (m) A party to a proceeding before the Indiana board shall provide
 33 to another party to the proceeding the information described in
 34 subsection (l) if the other party requests the information in writing at
 35 least ten (10) days before the deadline for filing of the information
 36 under subsection (l).

37 (n) The county assessor may:

38 (1) appear as an additional party; or

39 (2) with the approval of the township assessor, represent the
 40 township assessor;

41 in a review proceeding under this section.

42 (o) The Indiana board may base its final determination on a



1 stipulation between or among the parties. If the final determination
 2 is based on a stipulated assessed valuation of tangible property, the
 3 Indiana board may order the placement of a notation on the
 4 permanent assessment record of the tangible property that the
 5 assessed valuation was determined by stipulation. The Indiana
 6 board may:

7 (1) order that a final determination under this subsection has
 8 no precedential value; or

9 (2) specify a limited precedential value of a final
 10 determination under this subsection.

11 SECTION 7. IC 6-1.1-15-5, AS AMENDED BY P.L.178-2002,
 12 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2003]: Sec. 5. (a) ~~Within~~ **Not later than** fifteen (15) days
 14 after the Indiana board gives notice of its final determination under
 15 section 4 of this chapter to the party or the maximum allowable time for
 16 the issuance of a final determination by the Indiana board under section
 17 4 of this chapter expires, a party to the proceeding may request a
 18 rehearing before the Indiana board. The Indiana board may conduct a
 19 rehearing and affirm or modify its final determination, giving the same
 20 notices after the rehearing as are required by section 4 of this chapter.
 21 The Indiana board has fifteen (15) days after receiving a petition for a
 22 rehearing to determine whether to grant a rehearing. Failure to grant a
 23 rehearing ~~within~~ **not later than** fifteen (15) days after receiving the
 24 petition shall be treated as a final determination to deny the petition. A
 25 petition for a rehearing does not toll the time in which to file a petition
 26 for judicial review unless the petition for rehearing is granted. If the
 27 Indiana board determines to rehear a final determination, the Indiana
 28 board:

29 (1) may conduct the additional hearings that the Indiana board
 30 determines necessary or review the written record without
 31 additional hearings; and

32 (2) shall issue a final determination ~~within~~ **not later than** ninety
 33 (90) days after notifying the parties that the Indiana board will
 34 rehear the final determination.

35 ~~Failure of~~ **If the Indiana board fails** to make a final determination
 36 within the time allowed under subdivision (2), ~~shall be treated as a final~~
 37 ~~determination affirming the original decision of the Indiana board.~~
 38 **entirety that initiated the petition for rehearing may:**

39 (1) take no action and wait for the Indiana board to make a
 40 final determination; or

41 (2) petition for judicial review under subsection (g).

42 (b) A person may petition for judicial review of the final



determination of the Indiana board regarding the assessment of that person's tangible property. The action shall be taken to the tax court under IC 4-21.5-5. Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the **property** reassessment fund under ~~IC 6-1.1-4-27. In addition, IC 6-1.1-4-27.5.~~ The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit. The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. A:

- (1) township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section; or
- (2) county auditor who made the original enterprise zone inventory credit determination under appeal under IC 6-1.1-20.8; is a party to the review under this section to defend the determination.

(c) **Except as provided in subsection (g),** to initiate a proceeding for judicial review under this section, a person must take the action required by subsection (b) ~~within:~~ **not later than:**

- (1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or
- (2) thirty (30) days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section 4(f) or 4(g) of this chapter does not constitute notice to the person of an Indiana board final determination.

(e) The county executive may petition for judicial review to the tax court in the manner prescribed in this section upon request by the county assessor or elected township assessor.

(f) If the county executive determines upon a request under this subsection to not appeal to the tax court:

- (1) the entity described in subsection (b) that made the original



determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget; and

(2) the petitioner may not be represented by the attorney general in an action described in subdivision (1).

(g) If the maximum time elapses for the Indiana board to give notice of its final determination under section 4 of this chapter, a person may initiate a proceeding for judicial review by taking the action required by subsection (b) at any time after the maximum time elapses. If a judicial proceeding is initiated under this subsection, the tax court shall determine the matter de novo.

SECTION 8. IC 6-1.1-15-6, AS AMENDED BY P.L.198-2001, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) **Except with respect to a petition filed under section 5(g) of this chapter**, if a petition for judicial review is initiated by a person under section 5 of this chapter, the Indiana board shall prepare a certified record of the proceedings related to the petition.

(b) The record for judicial review **required under subsection (a)** must include the following documents and items:

(1) Copies of all papers submitted to the Indiana board during the course of the action and copies of all papers provided to the parties by the Indiana board. For purposes of this subdivision, the term "papers" includes, without limitation, all notices, petitions, motions, pleadings, orders, orders on rehearing, briefs, requests, intermediate rulings, photographs, and other written documents.

(2) Evidence received or considered by the Indiana board.

(3) A statement of whether a site inspection was conducted, and, if a site inspection was conducted, either:

(A) a summary report of the site inspection; or

(B) a videotape transcript of the site inspection.

(4) A statement of matters officially noticed.

(5) Proffers of proof and objections and rulings on them.

(6) Copies of proposed findings, requested orders, and exceptions.

(7) Either:

(A) a transcription of the audio tape of the hearing; or

(B) a transcript of the hearing prepared by a court reporter.

Copies of exhibits that, because of their nature, cannot be incorporated into the certified record must be kept by the Indiana board until the appeal is finally terminated. However, this evidence must be briefly named and identified in the transcript of the evidence and proceedings.

(c) Except with respect to a petition filed under section 5(g) of



this chapter, if the tax court judge finds that:

- (1) a report of all or a part of the evidence or proceedings at a hearing conducted by the Indiana board was not made; or
- (2) a transcript is unavailable;

a party to the appeal initiated under section 5 of this chapter may, at the discretion of the tax court judge, prepare a statement of the evidence or proceedings. The statement must be submitted to the tax court and also must be served on all other parties. A party to the proceeding may serve objections or prepare amendments to the statement not later than ten (10) days after service.

SECTION 9. IC 6-1.1-18.5-13, AS AMENDED BY P.L.192-2002(ss), SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

- (1) Permission to the civil taxing unit to reallocate the amount set aside as a property tax replacement credit as required by IC 6-3.5-1.1 for a purpose other than property tax relief. However, whenever this occurs, the local government tax control board shall also state the amount to be reallocated.
- (2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.
- (3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.
- (4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the

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1 local government tax control board finds that the quotient
 2 determined under STEP SIX of the following formula is equal to
 3 or greater than one and three-hundredths (1.03):

4 STEP ONE: Determine the three (3) calendar years that most
 5 immediately precede the ensuing calendar year and in which
 6 a statewide general reassessment of real property does not first
 7 become effective.

8 STEP TWO: Compute separately, for each of the calendar
 9 years determined in STEP ONE, the quotient (rounded to the
 10 nearest ten-thousandth (0.0001)) of the **sum of the** civil taxing
 11 unit's total assessed value of all taxable property **and the total**
 12 **assessed value of property tax deductions in the unit under**
 13 **IC 6-1.1-12-41 or IC 6-1.1-12-42** in the particular calendar
 14 year, divided by the **sum of the** civil taxing unit's total
 15 assessed value of all taxable property **and the total assessed**
 16 **value of property tax deductions in the unit under**
 17 **IC 6-1.1-12-41 or IC 6-1.1-12-42** in the calendar year
 18 immediately preceding the particular calendar year.

19 STEP THREE: Divide the sum of the three (3) quotients
 20 computed in STEP TWO by three (3).

21 STEP FOUR: Compute separately, for each of the calendar
 22 years determined in STEP ONE, the quotient (rounded to the
 23 nearest ten-thousandth (0.0001)) of the **sum of the** total
 24 assessed value of all taxable property ~~of all civil taxing units~~
 25 **in all counties and the total assessed value of property tax**
 26 **deductions in all counties under IC 6-1.1-12-41 or**
 27 **IC 6-1.1-12-42** in the particular calendar year, divided by the
 28 **sum of the** total assessed value of all taxable property ~~of all~~
 29 **civil taxing units in all counties and the total assessed value**
 30 **of property tax deductions in all counties under**
 31 **IC 6-1.1-12-41 or IC 6-1.1-12-42** in the calendar year
 32 immediately preceding the particular calendar year.

33 STEP FIVE: Divide the sum of the three (3) quotients
 34 computed in STEP FOUR by three (3).

35 STEP SIX: Divide the STEP THREE amount by the STEP
 36 FIVE amount.

37 In addition, before the local government tax control board may
 38 recommend the relief allowed under this subdivision, the civil
 39 taxing unit must show a need for the increased levy because of
 40 special circumstances, and the local government tax control board
 41 must consider other sources of revenue and other means of relief.
 42 The civil taxing unit may increase its levy by a percentage not

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greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(5) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(6) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and

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contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(7) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(8) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(9) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);



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- (ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);
- (iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);
- (iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or
- (v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(10) Permission for a county having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991. Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum



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1 aggregate levy increases that the local government tax control
2 board may recommend for a county equals the county's share of
3 the costs of operating the jail or juvenile detention center for the
4 first full calendar year in which the jail or juvenile detention
5 center is in operation.

6 (11) Permission for a township to increase its levy in excess of the
7 limitations established under section 3 of this chapter, if the local
8 government tax control board finds that the township needs the
9 increase so that the property tax rate to pay the costs of furnishing
10 fire protection for a township, or a portion of a township, enables
11 the township to pay a fair and reasonable amount under a contract
12 with the municipality that is furnishing the fire protection.
13 However, for the first time an appeal is granted the resulting rate
14 increase may not exceed fifty percent (50%) of the difference
15 between the rate imposed for fire protection within the
16 municipality that is providing the fire protection to the township
17 and the township's rate. A township is required to appeal a second
18 time for an increase under this subdivision if the township wants
19 to further increase its rate. However, a township's rate may be
20 increased to equal but may not exceed the rate that is used by the
21 municipality. More than one (1) township served by the same
22 municipality may use this appeal.

23 (12) Permission for a township to increase its levy in excess of the
24 limitations established under section 3 of this chapter, if the local
25 government tax control board finds that the township has been
26 required, for the three (3) consecutive years preceding the year for
27 which the appeal under this subdivision is to become effective, to
28 borrow funds under IC 36-6-6-14 to furnish fire protection for the
29 township or a part of the township. However, the maximum
30 increase in a township's levy that may be allowed under this
31 subdivision is the least of the amounts borrowed under
32 IC 36-6-6-14 during the preceding three (3) calendar years. A
33 township may elect to phase in an approved increase in its levy
34 under this subdivision over a period not to exceed three (3) years.
35 A particular township may appeal to increase its levy under this
36 section not more frequently than every fourth calendar year.

37 (13) Permission to a city having a population of more than
38 twenty-nine thousand (29,000) but less than thirty-one thousand
39 (31,000) to increase its levy in excess of the limitations
40 established under section 3 of this chapter if:

41 (A) an appeal was granted to the city under subdivision (1) in
42 1998, 1999, and 2000; and

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(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned to have reallocated in 2001 under subdivision (1) for a purpose other than property tax relief.

SECTION 10. IC 6-1.1-20.8-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 4. An urban enterprise association created under IC 4-4-6.1-4 may by resolution waive failure to file a:**

(1) timely; or

(2) complete;

credit application under section 2.5 of this chapter. Before adopting a waiver under this subsection, the association shall conduct a public hearing on the waiver.

SECTION 11. IC 6-1.1-21-4, AS AMENDED BY P.L.192-2002(ss), SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

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(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (i), the department shall not



1 distribute under subsection (b) and section 10 of this chapter the money
2 attributable to the county's property reassessment fund if:

3 (1) by the date the distribution is scheduled to be made, the
4 county auditor has not sent a certified statement required to be
5 sent by that date under IC 6-1.1-17-1 to the department of local
6 government finance; **or**

7 **(2) by the deadline under IC 36-2-9-20, the county auditor has**
8 **not transmitted data as required under that section.**

9 (f) Except as provided in subsection (i), if the elected township
10 assessors in the county, the elected township assessors and the county
11 assessor, or the county assessor has not transmitted to the department
12 of local government finance by October 1 of the year in which the
13 distribution is scheduled to be made the data for all townships in the
14 county required to be transmitted under IC 6-1.1-4-25(b), the state
15 board or the department shall not distribute under subsection (b) and
16 section 10 of this chapter a part of the money attributable to the
17 county's property reassessment fund. The portion not distributed is the
18 amount that bears the same proportion to the total potential distribution
19 as the number of townships in the county for which data was not
20 transmitted by ~~August 1~~ **October 1** as described in this section bears
21 to the total number of townships in the county.

22 (g) Money not distributed under subsection (e) shall be distributed
23 to the county when the county auditor sends to the department of local
24 government finance the certified statement required to be sent under
25 IC 6-1.1-17-1 with respect to which the failure to send resulted in the
26 withholding of the distribution under subsection (e).

27 (h) Money not distributed under subsection (f) shall be distributed
28 to the county when the elected township assessors in the county, the
29 elected township assessors and the county assessor, or the county
30 assessor transmits to the department of local government finance the
31 data required to be transmitted under IC 6-1.1-4-25(b) with respect to
32 which the failure to transmit resulted in the withholding of the
33 distribution under subsection (f).

34 (i) The restrictions on distributions under subsections (e) and (f) do
35 not apply if the department of local government finance determines
36 that:

37 (1) the failure of a county auditor to send a certified statement as
38 described in subsection (e); or

39 (2) the failure of an official to transmit data as described in
40 subsection (f);

41 is justified by unusual circumstances.

42 SECTION 12. IC 6-1.1-28-6, AS AMENDED BY P.L.1-2001,

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SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The county ~~auditor~~ **assessor** shall give notice of the time, place, and purpose of each annual session of the county property tax assessment board. The county ~~auditor~~ **assessor** shall give the notice two (2) weeks before the first meeting of the board by:

- (1) publication in two (2) newspapers of general circulation which are published in the county and which represent different political parties; or
- (2) publication in one (1) newspaper of general circulation published in the county if the requirements of clause (1) of this section cannot be satisfied; or
- (3) posting in three (3) public places in each township of the county if a newspaper of general circulation is not published in the county.

SECTION 13. IC 6-1.5-5-2, AS ADDED BY P.L.198-2001, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

- (1) conduct a hearing; or
- (2) cause a hearing to be conducted by an administrative law judge.

The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may:

(1) assign:

(A) limited; or

(B) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing, by mail, to:

- (1) the taxpayer;
- (2) the department of local government finance; and
- (3) the appropriate:
 - (A) township assessor;
 - (B) county assessor; and
 - (C) county auditor.

(d) The Indiana board shall give the notices required under

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1 subsection (c) at least thirty (30) days before the day fixed for the
2 hearing.

3 SECTION 14. IC 6-1.5-5-4, AS ADDED BY P.L.198-2001,
4 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2003]: Sec. 4. (a) An administrative law judge who conducts
6 a hearing shall submit a written report of findings of fact and
7 conclusions of law to the Indiana board.

8 (b) After reviewing the report of the administrative law judge, the
9 Indiana board may take additional evidence or hold additional hearings.

10 (c) **The Indiana board may base its final determination on a**
11 **stipulation between or among the parties. If the final determination**
12 **is based on a stipulated assessed valuation of tangible property, the**
13 **Indiana board may order the placement of a notation on the**
14 **permanent assessment record of the tangible property that the**
15 **assessed valuation was determined by stipulation. The Indiana**
16 **board may:**

17 (1) **order that a final determination under this subsection has**
18 **no precedential value; or**

19 (2) **specify a limited precedential value of a final**
20 **determination under this subsection.**

21 (d) **If the Indiana board does not issue its final determination**
22 **under subsection (c), the Indiana board shall base its final**
23 **determination on:**

24 (1) the:

25 (A) report of the administrative law judge; or

26 (B) evidence received at a hearing conducted by the Indiana
27 board;

28 (2) any additional evidence taken by the Indiana board; and

29 (3) any records that the Indiana board considers relevant.

30 SECTION 15. IC 6-1.5-6-2 IS ADDED TO THE INDIANA CODE
31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
32 1, 2003]: Sec. 2. (a) **The Indiana board may adopt rules under**
33 **IC 4-22-2 to:**

34 (1) **require appraisals of tangible property submitted as**
35 **evidence in proceedings before the Indiana board under this**
36 **article to:**

37 (A) **comply with the Uniform Standards of Professional**
38 **Appraisal Practices; and**

39 (B) **include any information identified by the Indiana**
40 **board; and**

41 (2) **establish procedures for the conduct of proceedings before**
42 **the Indiana board under this article including procedures for:**



- 1 (A) prehearing conferences;
- 2 (B) hearings;
- 3 (C) allowing the Indiana board, upon agreement of all
- 4 parties to the proceeding, to determine that a petition does
- 5 not require a hearing because it presents substantially the
- 6 same issue that was decided in a prior Indiana board
- 7 determination;
- 8 (D) voluntary arbitration;
- 9 (E) voluntary mediation;
- 10 (F) discovery;
- 11 (G) evidentiary matters;
- 12 (H) briefing;
- 13 (I) application of the Indiana trial rules;
- 14 (J) submission of an agreed record;
- 15 (K) joinder of petitions concerning the same or similar
- 16 issues;
- 17 (L) summary judgment;
- 18 (M) small claims; and
- 19 (N) any other matter determined by the Indiana board.
- 20 (b) Rules under subsection (a)(2)(M):
- 21 (1) may include rules that:
- 22 (A) prohibit discovery;
- 23 (B) restrict the length of a hearing; and
- 24 (C) establish when a hearing is not required; and
- 25 (2) must include rules that:
- 26 (A) permit a party to a proceeding subject to the Indiana
- 27 board's procedures for small claims to elect that those
- 28 procedures do not apply to the proceeding; and
- 29 (B) permit an agreement among all parties to a proceeding
- 30 not subject to the Indiana board's procedures for small
- 31 claims that those procedures apply to the proceeding.
- 32 SECTION 16. IC 36-2-9-20, AS ADDED BY P.L.178-2002,
- 33 SECTION 115, IS AMENDED TO READ AS FOLLOWS
- 34 [EFFECTIVE JULY 1, 2003]: Sec. 20. The county auditor shall:
- 35 (1) maintain an electronic data file of the information contained
- 36 on the tax duplicate for all:
- 37 (A) parcels; and
- 38 (B) personal property returns;
- 39 for each township in the county as of each assessment date;
- 40 (2) maintain the file in the form required by:
- 41 (A) the legislative services agency; and
- 42 (B) the department of local government finance; and



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1 (3) transmit the data in the file with respect to the assessment date
2 of each year before ~~October 1~~ **March 1** of the **next** year to:

3 (A) the legislative services agency; and

4 (B) the department of local government finance.

5 SECTION 17. [EFFECTIVE JULY 1, 2003] **(a) IC 6-1.1-12.1-11.3**
6 **and IC 6-1.1-18.5-13, both as amended by this act, apply only to**
7 **property taxes first due and payable after December 31, 2003.**

8 **(b) This SECTION expires January 1, 2005.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 556, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, strike "upon" and insert "**not later than thirty (30) days after receipt of**".

Page 2, line 1, delete "fifteen (15)" and insert "**thirty (30)**".

Page 2, line 6, delete "The county treasurer may make".

Page 2, delete line 7.

Page 2, line 8, delete "scheduled distribution date.".

Page 2, line 16, delete "(d)".

Page 2, line 16, beginning with "The" begin a new line blocked left.

Page 2, line 16, strike "The request for funds under subsection (b)".

Page 2, line 16, delete "or (c)".

Page 2, line 16, strike "must be filed".

Page 2, strike line 17.

Page 2, line 18, strike "the advance.".

Page 2, line 18, after "advance." begin a new paragraph and insert: "(d)".

Page 7, line 39, delete "intervene;" and insert "**appear as an additional party;**".

Page 8, line 2, delete "the Indiana board and the petitioner." and insert "**or among the parties.**".

Page 13, line 3, delete "STEP FIVE amount." and insert "**percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.**".

Page 19, between lines 39 and 40, begin a new paragraph and insert: "SECTION 12. IC 6-1.1-28-6, AS AMENDED BY P.L.1-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The county ~~auditor~~ **assessor** shall give notice of the time, place, and purpose of each annual session of the county property tax assessment board. The county ~~auditor~~ **assessor** shall give the notice two (2) weeks before the first meeting of the board by:

(1) publication in two (2) newspapers of general circulation which are published in the county and which represent different political parties; or

(2) publication in one (1) newspaper of general circulation published in the county if the requirements of clause (1) of this section cannot be satisfied; or



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(3) posting in three (3) public places in each township of the county if a newspaper of general circulation is not published in the county."

Page 20, line 36, delete "the Indiana board and the petitioner." and insert "**or among the parties.**".

Page 21, line 23, delete "board;" and insert "**board; and**".

Page 21, delete lines 24 through 27.

Page 21, line 28, delete "(3)" and insert "**(2)**".

Page 21, line 32, delete "to make a determination" and insert ", **upon agreement of all parties to the proceeding, to determine**".

Page 22, line 6, delete "(a)(3)(M):" and insert "**(a)(2)(M):**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 556 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 14, Nays 0.

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